



Explanatory leaflet – A short guide for users

First-tier Tribunal – General Regulatory Chamber (Charity)

1. Introduction

This leaflet

This explanatory leaflet is intended to provide helpful information. It is not a substitute for the Acts or the Rules and has no legal force. If you are unsure of your position or your options, you should seek professional legal advice.

The National Pro Bono Unit (www.barprobono.org.uk) maybe able to provide you with help on your case. Please note, however, that the First-tier Tribunal (Charity) does not endorse, and cannot recommend any particular organisation. It is a matter for you whether or not to seek any advice from them or to accept it, if offered. The Bar Pro Bono Unit is a national charity matching barristers prepared to undertake pro-bono work with those who need their help.

Legal aid for representation is not available for first-instance appeals to the Charity Tribunal. Unlike courts, most tribunals question the user to find out relevant information rather than relying on the user to present an argument. This means that users of tribunals should be able to present evidence by themselves, and for this reason legal representation should be unnecessary.

The Upper Tribunal hears appeals from decisions of the First-tier Tribunal on points of law, as well as certain judicial review matters which would previously have been considered by the High Court. Legal aid for both advice and representation is available for Upper Tribunal proceedings which fall into either of these categories, irrespective of the jurisdiction of the First-tier Tribunal. This is because the right of appeal was previously to the High Court. The provision of legal aid is subject to the usual tests of the applicant's means and the merits of their case.

The Legal Services Commission (LSC) administers the legal aid scheme
www.legalservices.gov.uk

What is the First-tier Tribunal (Charity)?

The Charities Act 2006 established the Charity Tribunal for England and Wales. In September 2009 this was transferred to the First-tier Tribunal under TCE Act 2007.

The Charity Commission is established by law as the regulator and registrar of charities in England and Wales.

The First-tier Tribunal (Charity) is administered by HM Courts & Tribunals Service, an executive agency of the Ministry of Justice (MoJ). The Tribunal has a Principal Judge who is the judicial head of the 5 Judges and 7 other members, who are appointed by the Lord Chancellor following recommendation from the Judicial Appointments Commission.

The administration of the First-tier Tribunal (Charity) is operated from Leicester. Hearings can be arranged anywhere in England and Wales.

2. How cases are dealt with by the First-tier Tribunal (Charity)

The Tribunal can:

- Hear appeals against the decisions of the Charity Commission.
- In some cases, hear applications for review of decisions of the Charity Commission.
- Consider references from the Attorney General or the Charity Commission on general points of Charity law.

How are appeals, applications and references started?

Appeals and Applications are started by the Appellant sending a written notice of appeal to the First-tier Tribunal (Charity) Team with all necessary information. The Attorney General or the Charity Commission, with the consent of the Attorney General will file a reference notice with the First-tier Tribunal (Charity) Team.

Where can I get help?

The First-tier Tribunal (Charity) Team will respond to correspondence and telephone calls and give advice on procedural matters. They cannot advise you on the merits of your case or how to prepare it. If you want advice, you should seek help from a solicitor. A Citizens Advice Bureau or other advisers experienced in First-tier Tribunal (Charity) matters may also be of assistance. Please also see the website for further details of advice.

Will there be a hearing?

There are two ways in which an appeal can be determined.

Oral hearing This will be a hearing, similar to but less formal than a court hearing, to determine the case where all parties attend to plead their case before a tribunal. The parties may call witnesses who will be questioned by the parties and by the Tribunal. The Tribunal may direct that witnesses who give evidence swear on an appropriate Holy Book or make an affirmation to tell the truth. The parties will also be expected to make submissions – that is to explain to the Tribunal what decision they say it should reach and why. At the end of the hearing the Tribunal might announce its decision with written reasons to follow but,

more commonly, the Tribunal will take more time to deliberate over its decision and send a written decision to the parties within three weeks.

Paper hearing Although known as a hearing, strictly speaking it is not. The Tribunal will meet in the absence of the parties and come to a decision based on the paper submissions made by the parties. They will then send their decision, in writing, to the parties. An appeal cannot be determined by a paper hearing unless all the parties consent and the Tribunal is satisfied that it can properly determine the issues without an oral hearing.

Can an appeal, application or reference be withdrawn?

Yes. It is possible for an appellant to withdraw an appeal, by sending a written notice of withdrawal to the First-tier Tribunal (Charity) office. Alternatively, the Charity Commission may withdraw their opposition to an appeal, once the First-tier Tribunal (Charity) Team has accepted it. An appellant would be notified of this by the First-tier Tribunal (Charity) Team if the situation were to arise on their appeal.

How long will it take?

The Tribunal aims to deal with your appeal as quickly as possible. Should the appellant and the respondent both submit all the necessary documents ahead of the specified time limits, and can attend the hearing on the date set by the Tribunal, a decision may be reached in a shorter period of time. For some appeals, especially if they are large or complex, parties may find that getting their cases ready for hearing could take several months or more. The Tribunal aim is determine cases within 30 weeks from receipt of the Notice of Appeal to its conclusion.

Do I need to instruct representatives?

A party may choose to conduct their own case and appear on their own behalf at the hearing, or to be represented. Please see the website for further details of legal advice

3. Hearings

Venues

The Tribunal hearing will take place in Tribunal Service hearing centres anywhere in England or Wales. We aim to hold the hearing in a location convenient to the parties. Parties will be notified of the details of their hearing and venue by post.

Is a hearing formal?

No. Tribunal proceedings are informal and neither the Tribunal members nor advocates wear robes or wigs. Tribunals judges are referred to as 'Sir' or 'Madam'. Hearings are in public unless there are exceptional circumstances. On the day of the hearing you are advised to arrive a little before the appointed time so that you can make yourself known to the tribunal clerk, familiarise yourself with the hearing room layout and get the documentation in order. There is a diagram of a typical hearing on our website at www.justice.gov.uk/tribunals/charity/hearings

4. Decisions

Will there be a written decision?

Yes. The Tribunal may announce its decision at the conclusion of the main hearing or say that the decision will be given later. If announced at the conclusion a written copy of the decision will be sent later.

5. Further Appeals

Can I appeal against the decision of the First-tier Tribunal (Charity)?

Application to set aside the decision

You can ask the Tribunal Panel to set aside its own decision if:

- a relevant document in your case was not received in time to be considered by the appeal panel;
- you or your representative was not present at the hearing; or
- you think there was some irregularity in the proceedings.

If you want to ask for the decision to be set aside, you must do so in writing within 28 days of receiving the decision.

Application to appeal the Tribunal's decision

You can appeal certain decisions of the Tribunal to the Upper Tribunal on a point of law. However, you must first apply to the Tribunal asking for permission to appeal.

On receipt of an appeal application, the Tribunal will first consider whether to review its decision based on your reasons for appeal. A fresh decision may be issued following a review, or the Tribunal may grant you leave to appeal to the Upper Tribunal on a point of law.

If you are given permission to appeal to the Upper Tribunal

It is your responsibility to make the appeal. You should do so without delay because you have just one month between being given permission to appeal and notifying the Upper Tribunal of your appeal. Contact details are below.

If you are refused permission to appeal to the Upper Tribunal

If the Tribunal decides that a review is not appropriate and if it refuses your application, you can apply directly to the Upper Tribunal for permission to appeal. To do this you should contact:

The Tax and Chancery Chamber of the Upper Tribunal
45 Bedford Square
London
WC1B 3DN

www.justice.gov.uk/tribunals/tax-and-chancery-upper-tribunal

6. Transfer of cases to the Upper Tribunal

The President of the General Regulatory Chamber of the Tribunal may at any time, with the consent of the President of the Tax of the Upper Tribunal, direct that a case, or any part of it, shall be transferred to and determined in that Chamber of the Upper Tribunal.

The Tribunal may, if the case raises complex or unusual issues and having consulted the parties, refer a case to the Chamber President with a request that the case be considered for transfer to the Upper Tribunal

7. Comments and complaints

If you have any comments or complaints about the service you have received from the First-tier Tribunal (Charity) Team, please contact the Tribunal Manager:

Team Manager
First-tier Tribunal (Charity)
HM Courts & Tribunals Service
PO Box 9300
Leicester
LE1 8DJ

If you then wish to take the matter further please contact:

Centre Manager
HM Courts & Tribunals Service
PO Box 9300
Leicester
LE1 8DJ

The HM Courts & Tribunals Service complaint leaflet '**EX343: I want to complain – What do I do?**' is available on the HM Courts & Tribunals Service website at www.justice.gov.uk/contacts/hmcts.

Please note: Neither the Tribunal Manager nor the Customer Service Unit can deal with complaints about judicial decisions. If you are dissatisfied with the final decision made after the hearing of your case, your only recourse is to request the First-tier Tribunal (Charity) to review its decision or apply for permission to apply to appeal to the Upper Tribunal on a point of law.

9. Useful contact information

The administrative team for the First-tier Tribunal (Charity) is based at:

HM Courts & Tribunals Service
PO Box 9300
Leicester
LE1 8DJ

Telephone: 0300 123 4504
Fax: 0116 249 4253
Email: grc.charity@hmcts.gsi.gov.uk

Please contact the Tribunal on the above number if you wish to discuss aspects of your case.

Website: www.justice.gov.uk/tribunals/charity

The website includes useful information about Tribunal procedures, the relevant Act, Rules and the main forms for commencing proceedings.

10. Acts of Parliament and Statutory Instruments

Acts of Parliament giving jurisdiction to the Charity Tribunal:

Charities Act 2006
TCE Act 2007
Transfer Order

Statutory Instruments:

The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009
Commencement order

8. Glossary of terms

Act: Law, as an Act of Parliament; a statute passed by both Houses of Parliament and ratified by royal assent.

Appellant: a person who appeals or makes an application for review, either by having a right of appeal, or by being granted permission to appeal.

Attorney General: the constitutional protector of charity.

Applicant: a person who seeks permission to bring an appeal to the Upper Tribunal against a decision of the First-tier Tribunal (Charity).

Commission's Response: a statement submitted under the General Regulatory Chamber rules setting out the basis of the commissioner's case.

Preliminary Issue: an issue ordered to be heard by the Tribunal in advance of the main issue because it is considered to have a material bearing on the outcome of the case.

Reference: means the referral by the Charity Commission or the Attorney General of a question relating to either the operation of Charity Law or its application.

Representative: A person nominated by the appellant, applicant or respondent to represent them during Tribunal proceedings.

Referrer: A person making a reference to the Tribunal, being either the Charity Commission or the Attorney General.

Reply: an appellant's statement submitted after the Response under the GRC rules.

Respondent: a person who submits a notice of intention to respond to an appeal, application or reference.

Statutory Instrument: a document issued by the delegated authority (usually a Government Minister or committee) named within an Act of Parliament which affects the working of the original Act.

Statutory powers: legal powers derived from statutes, i.e. Acts of Parliament.